



Hendry County Sheriff's Office

General Order 15.3

TITLE: Workers' Compensation	SHERIFF'S APPROVAL: Digital
ORIGINATION DATE: February 11, 2019	REVISION DATE: May 23, 2019
RELATED REFERENCES: <i>Chapter 119, F.S., §440.15, F.S., §440.091, F.S., §943.10, F.S.</i> CFA:	
REVIEW FREQUENCY: 3 YEARS	DATE OF NEXT REVIEW: May 23, 2022

I. PURPOSE: The purpose of this order is to inform members about worker's compensation, procedures, and member's responsibility.

II. SCOPE: This order shall apply to all sheriffs' office members.

III. POLICY: Workers' Compensation is mandated by the State and provided by the Sheriff's Office to protect employees in case of an on-the-job injury. Employees have an obligation to conduct their work activities in such a manner as to promote a safe work environment. If there is reasonable suspicion that could be supported by specific and articulable facts that the on-the-job injury was caused by the employee's use of drugs and/or alcohol, a drug/alcohol test may be required. If use of drugs or alcohol is determined, benefits may be reduced or denied. If it is determined that there was reckless disregard in the use of safety equipment and/or procedures, the injured employee's benefits may be reduced or denied. In either case, the employee will be subject to disciplinary action, including dismissal.

IV. PROCEDURE:

A. Employee Responsibility to Report

1. Report all on-the-job injuries, diseases or exposures to your supervisor immediately after the injury or disease is discovered. **Failure to report on-the-job injuries or disease within 24 hours may jeopardize benefits.**
2. Obtain a photocopy of the First Report of Injury or Illness form from your supervisor once completed for presentation to the medical provider and/or pharmacy.

B. Supervisor's Responsibilities

1. Supervisor's Responsibility for Employee Medical Treatment
 - a. In the case of life threatening or serious on-the-job injuries, call 911. If the employee

is not in danger but needs immediate attention and can be safely transported by car, arrange to have him/her treated at the closest emergency medical facility. Report on-the-job injuries resulting in hospital admission as soon as possible to Human Resources during regular business hours or no later than the first business day immediately following admission if admission was after regular business hours, or on a weekend or holiday.

- b. For non-emergency on-the-job injuries, direct the employee to an authorized medical provider and immediately contact Human Resources with the information. Failure to immediately notify Human Resources or Hendry County Risk Management could cause the employee to experience a delay in receiving needed treatment. **Do not authorize the employee to use any provider other than authorized medical providers without consulting Human Resources or Hendry County Risk Management.**

2. Supervisor's Responsibility to Report Claim

- a. Complete an original First Report of Injury or Illness form 300.09-01 and a Supervisor's Accident Investigation Report form 300.09-02 for all on-the-job injuries/illnesses, regardless of whether or not remedial medical treatment by a medical provider is necessary. **The forms must be typed.** The First Report of Injury form **REQUIRES** the signature of the supervisor and the employee if the employee is available to sign. If the employee is not available to sign, the supervisor enters "not available to sign" in the employee's signature box.
- b. **Immediately EMAIL** both forms to Human Resources. After the forms are emailed, give the employee a copy of the First Report of Injury or Illness to present to the medical provider/pharmacy and then send the completed forms to Human Resources.
- c. **Failure to submit the First Report of Injury or Illness form to Human Resources on time results in a state imposed fine assessed against HCSO.**

3. Completing the Time Card of an Injured Employee

- a. Supervisors submit time cards for employees who are absent from work due to an on-the-job injury to the Finance Unit. Record a full day of regular time for the day of the injury.
- b. Record any time lost from work by the employee due to an on-the-job injury on the "Worker's Compensation" line of the HCSO time sheet. Workers' Compensation wage replacement benefits do not begin until the eighth calendar day of disability following the injury. The employee receives regular pay for the first seven calendar days. On the electronic time sheet (ETS), list hours for the first seven calendar days on the "Workers Compensation" line and make a note in the Comments section "Injury on Duty" with the date of accident. If the employee's disability exceeds 21 calendar days, the injured employee receives a retroactive Workers' Compensation wage compensation check for days one through seven. This check is paid directly to the Sheriff's Office to reimburse the Sheriff's Office and to prevent duplicate payment. The employee is never to receive a combination of wage compensation benefits and HCSO wages that exceeds their average weekly wage (FS 400.14(1)) at the time of injury.
- c. If an injured employee returns to work, reflect on the time card the hours worked on the "REGULAR" line. If, following return to work, there are hours not worked due to an on-the-job injury (other than time off for medical appointments), again enter such time off on the time sheet's "Worker's Compensation" line. Documentation is required from the Workers' Compensation treating physician authorizing such absences.
- d. Upon an employee's return to duty from a job related injury, record all medical related appointments and/or treatments that occur during normal working hours on the "Workers Compensation Appointment" line of the ETS. Employees are to make every effort to schedule

medical related appointments and/or treatments during non-working hours so as to minimize operational disruption.

C. Human Resources Responsibilities

1. When the faxed First Report of Injury or Illness and Supervisor's Report of Injury forms are received, Human Resources reviews and submits the claim to the Workers' Compensation carrier for processing.
2. Prior to payroll processing, Human Resources provides the names of employees injured during the payroll cycle to the Finance Unit. The payroll accountant calculates the number of accrued leave hours to be used in order to supplement wage compensation benefits for the injured employee.
3. A log and summary of occupational injuries, diseases and illnesses is maintained by Human Resources. The log contains basic information obtained from First Report of Injury or Illness forms.

D. Employee Right to Medical Treatment

1. In case of life threatening or serious on-the-job injuries, call 911 and/or seek immediate treatment at the closest emergency medical facility.
2. In the case of non-emergency on-the-job injuries, the employee seeks treatment by an **authorized medical provider**. A list of primary medical providers authorized for initial treatment is available on the HCSO intranet or from Human Resources.
3. The use of **non-authorized medical providers, which are not covered by Workers' Compensation, can result in the employee being responsible for service charges**. Treatment for on-the-job injuries is not covered under the Group Health Insurance Plan. The only exception is when the claim for the injury is controverted (denied) by the Workers' Compensation carrier.
4. The employee must tell the medical facility that it is a workers' compensation injury and show a copy of the First Report of Injury or Illness form to the medical provider, or have the provider call Human Resources (or Hendry County Risk Management) for authorization if the employee does not have a copy. The First Report of Injury or Illness form can also be used for prescribed medications dispensed by a pharmacy. Inform the pharmacy that the prescription is for treatment of a workers' compensation injury.
5. Workers' Compensation covers payment of all authorized medical treatment and prescriptions for injuries determined to be work-related. An employee cannot be charged for these services by law. The Workers' Compensation insurance carrier reimburses any payments made by the injured worker for medications prescribed by a workers' compensation authorized physician, and personal vehicle mileage (if off duty or if directed by supervision while on duty to use personal vehicle) incurred for medical provider appointments.
6. **Time used for initial medical treatment on the date of the injury is paid as time worked. Time used during duty hours for medical treatment(s) after the employee has returned to full or light duty is not paid by Workers' Compensation and is not considered as time worked.** The employee may use accrued leave for the appointments with prior notification to his/her supervisor.
7. To assure coverage under Workers' Compensation, the Workers' Compensation carrier or the Hendry County Risk Management Office authorizes referrals from the primary care doctor to a specialist.

8. It is the employee's responsibility to notify and/or furnish a copy of any information received from the medical provider about his/her medical status to his/her supervisor prior to returning to duty. If the employee is deemed unable to return to work by an authorized treating physician, the employee immediately provides notice in writing from the physician to his/her supervisor. The supervisor, in turn, immediately forwards such information to Human Resources. Since medical verification of absence from work due to an on-the-job injury is required in order to receive Workers' Compensation wage benefits, failure to provide this information in a timely manner may result in the loss of benefits.
9. Medical information submitted to the supervisor and Human Resources is considered confidential medical information and is not subject to public release. Such records are to be maintained separate from public record files.

E. Employee Receiving Workers' Compensation Benefits

1. If an authorized doctor provides a written statement that the employee is temporarily and totally unable to work while recovering from an on-the-job injury, the employee may be eligible for Workers' Compensation wage benefits. These benefits are defined by state law and are based on 66-2/3% of average weekly wages (up to a maximum established by law) and the number of days the employee actually loses from work. **The benefits are calculated by the Workers' Compensation carrier.**
2. A sworn law enforcement officer, as defined in Florida Statute 943.10, who is **maliciously or intentionally injured while acting within the course of employment, as provided in Florida Statute 440.091**, receives full pay based on his/her base compensation and is not required to use any accrued leave benefits. **This full-pay status is granted only after submittal to the Sheriff's Office of a current diagnosis documenting that the employee will recover and has the ability to return to work.**
3. The first day of injury the employee receives a full day of **regular** pay. **The second day of injury is considered the first day of disability when calculating benefits.**
4. Workers' Compensation Benefit Schedule (calendar days)
 - a. Days 1-7: A waiting period that is not paid by Workers' Compensation unless the disability exceeds 21 days. The injured employee is paid his/her regular payroll check as regular duty.
 - b. Days 8-14: Wage compensation benefits issued by Workers' Compensation carrier on day 15; check is paid to HCSO, since employee is being paid by HCSO.
 - c. Days 15-21 & 1-7: Wage compensation benefits issued by Workers' Compensation carrier on day 22; check is paid to HCSO, since employee is being paid by HCSO. Wage compensation checks are issued every two weeks if the disability continues.
5. An employee who is absent from work for more than 30 work days due to an on-the-job injury is placed on family and medical leave by the Sheriff's Office (refer to Procedure 300.031: Family and Medical Leave).

F. Employee Responsibility to Communicate with Supervisor and Human Resources

1. It is the responsibility of the employee to maintain contact with the supervisor and/or Human Resources if off duty due to a work-related injury. Reporting frequency is established by the supervisor and/or Human Resources, but is expected weekly at a minimum. Based on the nature of the injury and the anticipated duration of absence, the schedule of reporting may be altered by

Human Resources. Regardless of any designated reporting schedule, the employee is required to immediately notify the supervisor and/or Human Resources of any change in his/her condition or status. This information is important in determining the employee's benefits.

2. It is the employee's responsibility to keep Human Resources apprised of any and all doctors' appointments he/she may have **prior to** the actual appointment.
3. If the employee's name, address, or telephone number reported on the initial First Report of Injury or Illness form changes, the employee is required to notify Human Resources.

G. Benefits

1. Supplemental Benefits

- a. Unless Human Resources receives written notice from the employee not to supplement workers compensation wages, Human Resources supplements the employee's Workers' Compensation wage benefits rate (if the disability period exceeds seven calendar days) of 66-2/3% of their average weekly wages, if the employee has available accrued leave. Regular payroll deductions continue to be taken out. If the deductions exceed the amount of the check, the employee must make arrangements for payment of the remainder with Human Resources.
- b. For malicious or intentional injury refer above.
- c. Employees past their probationary period are allowed up to 90 days of worker's compensation leave during which the employee may use accrued time to supplement their pay up to 80 hours per pay period. After the initial 90-day worker's compensation leave, up to 90 additional days may be granted at the Sheriff's discretion. At the conclusion of the worker's compensation leave period, the Sheriff may elect to medically separate the employee from employment without prejudice. This benefit is only afforded an employee once during a 12-month period absent extenuating circumstances determined by the Sheriff. Worker's compensation leave beyond the initial 30 days is considered as leave under the Family Medical Leave Act.
- d. During the worker's compensation leave, accrued leave is used in the following order: sick leave, compensation leave, emergency leave, holiday leave, annual leave.

2. Other Sheriff's Office Benefits

- a. Group health and basic life insurance continue to be paid by the agency for permanent, full-time employees who are unable to work because of an on-the-job injury, unless the employee is separated from employment.
- b. Employees out of work due to an on-the-job injury continue to accrue sick and annual leave as long as they are receiving a Sheriff's Office paycheck.

H. Employees Assigned Take Home Vehicles & Equipment

1. Any employee assigned a Sheriff's Office vehicle who is unable to work for a period exceeding seven days may be required to relinquish his/her vehicle until he/she is released to return to work. It is the responsibility of the employee's supervisor to contact Fleet Maintenance and make arrangements for the vehicle to be picked up. The employee's supervisor may also collect additional assigned equipment. Once the employee has obtained a release to return to work, the supervisor contacts the employee concerning vehicle reassignment and re-issuance of assigned equipment.

I. Non-Sheriff's Office Employment

1. Employees on Workers' Compensation are not allowed to engage in law enforcement related off-duty employment where the employee wears a uniform of the Sheriff's Office; uses equipment issued by the Sheriff's Office, or may be called upon to perform law-enforcement functions.
2. Employees on Workers' Compensation are not allowed to engage in non-law enforcement related outside employment unless permission is obtained from the Sheriff; contact Human Resource for information on the procedure to obtain the Sheriff's permission.

J. Transitional Duty Program

1. The Sheriff's Office is committed to the well-being of its employees. To ensure this, Human Resource works closely with employees so they can return to work as soon as it is safely possible after an on-the-job injury or disease. **However, an employee cannot return to work until authorized by a written Physicians Statement from the assigned Workers' Compensation doctor.** The employee is responsible for contacting Human Resources **immediately** (by telephone or in person) when the doctor releases the employee to work. The employee brings the release form to his/her supervisor or Human Resource prior to reporting back to work on the designated date. If the form is given to the employee's supervisor, the supervisor is responsible for ensuring it is received by Human Resources prior to the employee's designated return date. Human Resource maintains a copy of the work release and notifies the employee's supervisor of the employee's release to return to work.
2. Failure to return to work on the date specified in the medical release (unless modified by the supervisor to coincide with shift arrangements or for other reasons determined by the Sheriff's Office) is considered as abandonment of position and may result in dismissal. Inability to return to either modified duty (if approved by the Sheriff) or full, unrestricted duty at the expiration of a 12 week family and medical leave for an on-the-job injury may result in medical termination, unless the absence is for a temporary, total disability.
3. Return prior to Maximum Medical Improvement
 - a. The doctor may release the employee to return to work with temporary restrictions prior to reaching maximum medical improvement (MMI). If these restrictions prevent the employee from performing his/her regular duties, Human Resource assigns the employee to a Transitional Duty Program position when reasonably possible. The employee's benefits continue to be paid by the agency and every attempt is made to keep the employee's position open until he/she reaches MMI or can return to unrestricted duty.
 - (1) Approved transitional duty is not to exceed a period of 60 days. The Sheriff, at his discretion, may extend this period of transitional duty.
 - (2) The period of time the employee serves in a transitional duty capacity shall be considered workers' compensation leave for purposes of the Sheriff considering a medical separation.
 - (3) The work schedule for transitional duty shall be the normal work schedule required by the transitional duty position at the discretion of the unit supervisor.
 - (4) Upon an employee's return to duty from a job related injury, record all medical related appointments and/or treatments that occur during normal working hours on the "Workers Compensation Appointment" line of the ETS.
 - (5) Employees are to make every effort to schedule medical related appointments and/or treatments during non-working hours so as to minimize operational disruption.

- (6) If the employee is assigned an agency issued vehicle, the employee will not use the assigned vehicle during the transitional duty assignment or any portion of the leave period without receiving medical clearance to operate a motor vehicle by the treating physician and approval from a chief officer. The clearance must be submitted in writing to Human Resource via the employee's chain of command prior to the use of the vehicle during the transitional duty assignment or associated leave period.

4. Return After Maximum Medical Improvement Without Medical Restriction

- a. An employee who has reached MMI and is released for full duty with **no restrictions** is, where reasonably possible, returned to the employee's original position. If that position is no longer available, Human Resource makes every attempt to place the employee in an equivalent position.

5. Return After Maximum Medical Improvement With Medical Restrictions

- a. If the doctor determines that the employee has reached MMI with medical restrictions that do not permit the employee to perform some or all the duties of his/her original position, the Sheriff's Office makes an attempt to place the employee in an alternate position. Consideration is given if a position is available and the employee meets all the qualifications. The employee's pay rate, benefits, and retirement category are adjusted accordingly. Depending on circumstances, the employee may be eligible for Workers' Compensation and/or disability insurance benefits if the reassignment results in a loss of pay.

K. Tax Status of Workers' Compensation Wage Benefits

1. When an injured employee is receiving a regular paycheck from the Sheriff's Office during calendar days 1 through 7 of Temporary Total Disability (TTD), without charge to any accrued leave balances, the wages received are subject to both federal withholding (income) tax, Social Security (FICA) and Medicare taxes.
2. When an injured employee is receiving a regular paycheck from the Sheriff's Office, in accordance with Florida Statute 440.15, as a result of being maliciously or intentionally injured within the course of employment, the wages received are not subject to employment taxes.
3. When an injured employee is on TTD, the portion of his/her paycheck that relates to the compensation rate is not subject to federal withholding (income) tax or Social Security (FICA) and Medicare taxes. However, any supplement to the compensation rate from the employee's accrued leave or donated leave benefits is subject to both federal withholding (income) tax and Social Security (FICA)/Medicare taxes for a six-month period following the date of injury.
4. Any changes to the statutes governing tax status of Workers' Compensation wage benefits and/or the Internal Revenue Code will be implemented.

L. Reimbursement of Wage Payments if Claim is Denied

1. If a claim for Workers' Compensation benefits is denied because the claim is controverted (denied) by the Workers' Compensation insurance carrier, any wage payments made by the Sheriff's Office to the employee which were not charged to a leave balance must be reimbursed by the employee by a deduction from his/her accrued leave balance(s), if available, or from future leave accruals if no balance or insufficient balance is available.

V. GLOSSARY:

AVERAGE WEEKLY WAGE (AWW) – The wage used to calculate payments for lost wages. It is the average weekly wage earned by an injured employee during the 13 weeks before injury. Depending on the date of accident, the AWW may or may not include income from jobs other than the one where the injury occurred.

COMPENSATION RATE (Worker's Compensation) (Comp. Rate or CR) – 66 2/3% of the average weekly wage up to a maximum benefit established by the Division of Workers' Compensation.

CONFIDENTIAL – Means not to be shared with persons or released without the express, written consent of the individual concerned. Limits to confidentiality apply in certain circumstances, as defined by law.

EXPOSURE INCIDENT – A specific eye, mouth, mucous membrane, non-intact skin, or parenteral contact with blood, other body fluids or other potentially infectious materials that results from the performance of an employee's duties.

FAMILY MEDICAL LEAVE ACT (FMLA) – A provision of 1993 Federal Law (U.S. Department of Labor, Title 29, Part 825) that provides employees a period of leave to care for a serious health problem affecting the employee or qualified member of his/her family.

INJURY – Personal injury, illness or death by accident arising out of and in the course of employment.

MAXIMUM MEDICAL IMPROVEMENT (MMI) – The point in time when the treating physician believes the injured worker has recovered as much as he/she is going to.

TEMPORARILY TOTAL DISABILITY (TTD) – A disability that completely prevents an injured worker from returning to work for a temporary time period.

TEMPORARY PARTIAL DISABILITY (TPD) – A disability that temporarily prevents an injured worker from performing his/her normal duties. The injured worker has some capability to work but with changed duties or with reduced hours.

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